

# In The United States Court of Federal Claims

No. 00-705C

(Filed: June 16, 2008)

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THE BOEING COMPANY,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

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## ORDER

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On May 27, 2008, closing argument was held in this case, during which the court ordered the parties to file a document better summarizing their views on infringement. Based on the discussions held at that time:

1. Plaintiff shall generate a new chart summarizing its views on infringement, using software that is compatible or identical to defendant's software, on 8.5" x 14" paper;
2. The chart columns shall fit horizontally on a sheet of 8.5" x 14" paper; a font smaller than 12-point font is acceptable;
3. The chart shall contain information similar to that contained in PX 1006 (*e.g.*, tank, part no., serial no. part time, heat aging hours, hours aged under 300° F, Li content, Zr content, and package), but **only** as to those items claimed to be infringing; In addition, the char shall include one or more columns that describe the theory or theories under which the designated part infringes (*e.g.*, direct infringement, doctrine of equivalents, scatter theory, *etc.*);
4. On or before June 30, 2008, plaintiff shall file this chart and send a copy of it in native electronic form (*i.e.*, in an electronic format compatible to defendant's software) to defendant;

5. Thereafter, defendant shall add to the chart an additional column indicating, in narrative form, why, if at all, it believes that the specific items listed has not been infringed. For this purpose, the court will presume that defendant continues to disagree with its infringement opinion – therefore, defendant need not list on its additions to the chart objections to plaintiff's infringement assertions on that basis.
- 6, On or before August 4, 2008, defendant shall file a completed version of the chart document.

**IT IS SO ORDERED.**

s/ Francis M. Allegra

Francis M. Allegra

Judge